

REMARKS

This Application has been carefully reviewed in light of the Office Action mailed February 23, 2005. In order to advance prosecution of this Application, Claims 1, 13, 28, and 38 have been amended. Applicant respectfully requests reconsideration and favorable action in this case.

Claims 1, 13, 28, and 38 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 4, 5, 7, 9, 10, 13, 15, and 18 of U.S. Patent No. 6,526,046. The filing date of the present Application is November 28, 2000. The filing date of U.S. Patent No. 6,526,046 is April 24, 2001. Thus, the present Application has an earlier effective filing date as compared to U.S. Patent No. 6,526,046. Therefore, obviousness-type double patenting does not apply to this Application when compared to U.S. Patent No. 6,526,046.

Claims 1-4, 13-16, 28-31, and 38-41 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Focsaneanu, et al. in view of Chao, et al. and further in view of Gerszberg, et al. Independent Claims 1, 13, 28, and 38 recite in general the ability to interface with first and second data communication protocols that include IP, ATM, and Frame Relay. These claims also recite that the associated broadband networks providing data packets can be any of digital subscriber line, cable, or wireless platforms. These claims also recite that the telecommunication interface formats may be any of GR-303, TR-8, SS7, V5, ISDN, and unbundled analog lines. By contrast, the Examiner readily admits that the Focsaneanu, et al. patent fails to disclose the ability to interface with first and second data communication protocols and also fails to disclose the types of broadband networks and telecommunication interface formats provided in the claims.

The Examiner cites a portion of the Focsaneanu, et al. patent that briefly mentions different protocols for connection requests and grants. However, the Focsaneanu, et al. patent fails to disclose an ability to provide information from various broadband networks in various data communication protocols to subscribers having various telecommunication interface formats as provided in the claimed invention. Thus, the Focsaneanu, et al. patent is insufficient by itself to support a rejection of the claims.

The Examiner combines the Chao, et al. patent with the Focsaneanu, et al. patent to support the ability to interface with first and second data communication protocols. However, the Chao, et al. patent is merely directed to an optical customer premises network for interfacing customer premises equipment. The portion of the Chao, et al. patent cited by the Examiner is concerned with a protocol for handling multiple priorities, which is not remotely related to interfacing with first and second data communication protocols. The unique protocol discussed in the Chao, et al. patent is a contention protocol to provide fair access to the upstream bus for all units. Thus, the contention protocol for providing fair access to the upstream bus mentioned by the Chao, et al. patent is totally unrelated to interfacing with first and second data communication protocols as required by the claimed invention. The Examiner has yet to show how the unique protocol described in the Chao, et al. patent is able to interface with first and second data communication protocols provided in the claimed invention.

The Examiner combines the Gerszberg, et al. patent with the Focsaneanu, et al. patent to support the fact that the associated broadband networks providing data packets can be any of digital subscriber line, cable, or wireless platforms.

However, the portions of the Gerszberg, et al. patent cited by the Examiner provide for only a single type of communication capability to and from its customer premises.

Based on the above discussion, the structure that would result from placing the unique protocol for contention determination of the Chao, et al. patent and the single communication type capability of the Gerszberg, et al. patent into the network of the Focsaneanu, et al. patent would still lack an ability to provide information to a subscriber in one of various telecommunication interface formats received from one of various broadband networks using one of various data communication protocols as required by the claimed invention. Therefore, Applicant respectfully submits that Claims 1-4, 13-16, 28-31, and 38-41 are patentably distinct from the proposed Focsaneanu, et al. - Chao, et al. - Gerszberg, et al. combination.

Claims 5-7, 17-19, 32, 33, 42, and 43 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Focsaneanu, et al. in view of Chao, et al. and Gerszberg, et al. and further in view of Hortenslus, et al. Independent Claim 1, from which Claims 5-7 depend; Independent Claim 13, from which Claims 17-19 depend; Independent Claim 28, from which Claims 32 and 33 depend; and Independent Claim 38, from which Claims 42 and 43 depend, have been shown above to be patentably distinct from the proposed Focsaneanu, et al. - Chao, et al. - Gerszberg, et al. combination. Moreover, the Hortenslus, et al. application does not include any additional disclosure combinable with the Focsaneanu, et al., Chao, et al., or Gerszberg, et al. patents that would be material to patentability of these claims. Therefore, Applicant respectfully submits that Claims 5-7, 17-19, 32, 33, 42, and 43 are patentably distinct from the proposed Focsaneanu, et

al. - Chao, et al. - Gerszberg, et al. - Hortenslus, et al. combination.

Claims 8, 10, 12, 20, 22, 24, 34, 35, 37, 44, 45, and 47 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Focsaneanu, et al. in view of Chao, et al. and Gerszberg, et al. and further in view of Pounds, et al. Independent Claim 1, from which Claims 8, 10, and 12 depend; Independent Claim 13, from which Claims 20, 22, and 24 depend; Independent Claim 28, from which Claims 34, 35, and 37 depend; and Independent Claim 38, from which Claims 44, 45, and 47 depend, have been shown above to be patentably distinct from the proposed Focsaneanu, et al. - Chao, et al. - Gerszberg, et al. combination. Moreover, the Pounds, et al. application does not include any additional disclosure combinable with the Focsaneanu, et al., Chao, et al., or Gerszberg, et al. patents that would be material to patentability of these claims. Therefore, Applicant respectfully submits that Claims 8, 10, 12, 20, 22, 24, 34, 35, 37, 44, 45, and 47 are patentably distinct from the proposed Focsaneanu, et al. - Chao, et al. - Gerszberg, et al. - Pounds, et al. combination.

Claims 11, 23, 36, and 46 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Focsaneanu, et al. in view of Chao, et al. and Gerszberg, et al. and further in view of Lyles, et al. Independent Claim 1, from which Claim 11 depends; Independent Claim 13, from which Claim 23 depends; Independent Claim 28, from which Claim 36 depends; and Independent Claim 38, from which Claim 46 depends, have been shown above to be patentably distinct from the proposed Focsaneanu, et al. - Chao, et al. - Gerszberg, et al. combination. Moreover, the Lyles, et al. application does not include any additional disclosure combinable with the Focsaneanu, et al., Chao, et al., or Gerszberg, et al. patents

that would be material to patentability of these claims. Therefore, Applicant respectfully submits that Claims 11, 23, 36, and 46 are patentably distinct from the proposed Focsaneanu, et al. - Chao, et al. - Gerszberg, et al. - Lyles, et al. combination.

Claims 9, 21, and 25-27 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Focsaneanu, et al. in view of Chao, et al. and Gerszberg, et al. and further in view of Lor. The deficiencies of the Focsaneanu, et al., Chao, et al., and Gerszberg, et al. patents have been noted above. The Lor patent merely shows a network that can be a cable compatible network or an asynchronous digital subscriber line network. The Lor patent has no capability to be both types of networks simultaneously. Additionally, the Lor patent does not even mention a wireless capability. Moreover, the mere mention of cable and DSL in the Lor patent does not provide sufficient disclosure to read on a gateway having packetization modules that can handle data packets from any of DSLAM, CMTS, or BSC units as provided in the claimed invention. Thus, the structure that would result from the Examiner's proposed combination would still lack an ability to handle data packets from any of DSLAM, CMTS, and BSC units carried by any of IP, ATM, or Frame Relay protocols and provided to subscribers over any of GR-303, TR-8, SS7, V5, ISDN, or unbundled analog lines telecommunication interface formats as required by the claimed invention. Therefore, Applicant respectfully submits that Claims 9, 21, and 25-27 are patentably distinct from the proposed Focsaneanu, et al. - Chao, et al. - Gerszberg, et al. - Lor combination.

CONCLUSION

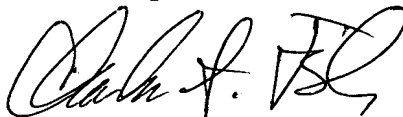
Applicant has now made an earnest attempt to place this case in condition for allowance. For the foregoing reasons, and for other reasons clearly apparent, Applicant respectfully requests full allowance of all pending claims.

The Commissioner is hereby authorized to charge any fees or credit any overpayments to Deposit Account No. 02-0384 of BAKER BOTTS L.L.P.

Respectfully submitted,

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